NOS. 82-1860 and 82-1862

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1983

SCHNEIDER MOVING & STORAGE COMPANY, PETITIONER,
AND
PROSSER'S MOVING AND STORAGE COMPANY, PETITIONER,

v.

LORAN W. ROBBINS, ET AL., RESPONDENTS

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

PETITIONER PROSSER'S MOVING AND STORAGE COMPANY'S
MOTION TO DIVIDE AND EXTEND THE TIME FOR ORAL ARGUMENT

Comes now Petitioner Prosser's Moving and Storage Company, by Charles W. Bobinette, counsel of record, pursuant to U.S. Sup. Ct. Rule 38 and in support of its Motion states:

1. On October 3, 1983, the Court entered the following order in the above-captioned causes:

> "The petitions for writs of certiorari are granted. The cases are consolidated and a total of one hour is allotted for oral argument."

2. Petitioners Schneider Moving & Storage Company (hereinafter Schneider) (82-1860) and Prosser's Moving and Storage Company (hereinafter Prosser) (82-1862) raise the same legal question for review: May trustees of multiemployer employee benefit funds sue an employer for breach of the collective bargaining agreement before exhausting the mandatory grievance and arbitration procedure set forth in the agreement where (1) the claims of the trustees raise questions as to the meaning and application of the agreement, and (2) the agreement requires that such claims be resolved through the grievance and arbitration procedure. The petitioners, however, raise the question in different factual settings:

A. Prosser remains a party to a current collective bargaining agreement, while in Schneider the union is decertified as the representative of Schneider's employees; and

B. Prosser disputes the claimed right of Respondent Trustees to inspect records kept on all of its employees, while in Schneider the company submitted to a broad inspection of its records.

Counsel for each petitioner is best suited to answer questions which may be posed during oral argument relating to the facts unique to their respective petitions.

3. Throughout the litigation, petitioners have been represented by separate counsel. At different times the parties have discussed the possibility of proceeding collectively. In each instance it was determined that, because of the factual differences between the two cases, one counsel could not represent both petitioners without creating a conflict of interest.

4. Despite the good faith efforts of counsel for petitioners, they have not been able to agree upon a method by which both petitioners' interests can be adequately represented if only one counsel is permitted to argue on behalf of both petitioners.

5. To avoid this conflict of interest, and the appearance of impropriety, counsel for Prosser suggests that it is proper to permit petitioners to divide their oral argument and to allot petitioners an additional ten (10) minutes, for a total of forty (40) minutes, in order to adequately present the oral argument to the Court.

6. Prosser's counsel is advised that Schneider has filed a similar motion to divide and extend the time for oral argument. In the event that said Motions are granted, counsel for petitioners will coordinate their efforts to avoid repetitious arguments.

WHEREFORE, Petitioner Prosser's Moving and Storage Company, prays this Honorable Court to grant its Motion for permission to

divide the petitioner's oral argument and allot petitioners a total of forty (40) minutes for oral argument.

Respectfully submitted,

Charles W. Bobinette
Counsel of Record for Petitioner
Prosser's Moving and Storage Company
1015 Locust Street - Suite 420
St. Louis, Missouri 63101
(314) 621-9550

AFFIDAVIT OF SERVICE

I, Charles W. Bobinette, being first duly sworn, state upon my oath, that on the 5th day of December, 1983, a true copy of the foregoing Motion was served on all counsel of record in this proceeding by depositing three (3) copies thereof in the United States Mail, postage prepaid, and addressed to:

Russell N. Luplow, Esq. Counsel for Respondents
505 Woodward Avenue - Suite 3400
Bloomfield Hills, Michigan 48013

David F. Yates, Esq., Counsel for
Schneider Moving & Storage Co.
7711 Carondelet Avenue - Suite 500
St. Louis, Missouri 63105

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

Subscribed and sworn to before me this 5 day of December, 1983.

Notary Public

My commission expires:

ALAN B. WEBER
NOTARY PUBLIC, STATE OF MISSOURI
MY COMMISSION EXPIRES DEC. 18, 1985
ST. LOUIS COUNTY